

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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STEVEN WEBER,

Plaintiff,

v.

23-CV-499 (JLS) (HKS)

TOWN OF LEROY,

Defendant.

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### **DECISION AND ORDER**

Plaintiff Steven Weber initiated this action—alleging civil rights claims and claims arising from Defendant’s tortious acts. *See* Dkt. 1. On September 22, 2023, Defendant moved to dismiss. Dkt. 5. Plaintiff responded in opposition (Dkt. 7), and Defendant replied. Dkt. 8.

On May 1, 2024, Judge Schroeder<sup>1</sup> issued a Report, Recommendation, and Order (“R&R”), recommending that this Court deny Defendant’s motion to dismiss. Dkt. 9, at 20.<sup>2</sup> On May 14, 2024, Defendant objected to the R&R. Dkt. 15. Plaintiff responded (Dkt. 24), and Defendant replied. Dkt. 25, 26.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district

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<sup>1</sup> This Court referred the case to United States Magistrate Judge H. Kenneth Schroeder, Jr. for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 6.

<sup>2</sup> The page numbers refer to the CM/ECF pagination in the header of each page.

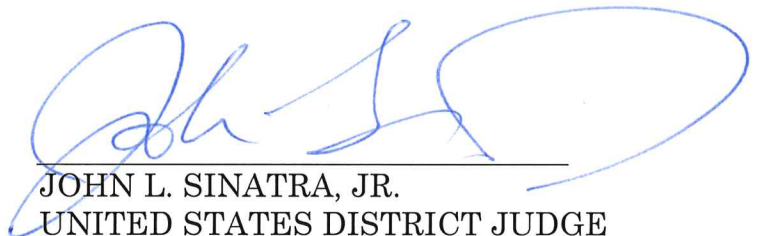
court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

This Court carefully reviewed the R&R, the objections briefing, and the relevant record. Based on its *de novo* review, the Court accepts and adopts Judge Schroeder's recommendation.

For the reasons stated above, and in the R&R, this Court DENIES Defendant's motion to dismiss.<sup>3</sup> The case is referred back to Judge Schroeder for further proceedings consistent with the September 26, 2023 referral order. Dkt. 6.

SO ORDERED.

Dated: February 18, 2025  
Buffalo, New York



JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE

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<sup>3</sup> The Court acknowledges that this is in a Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6) posture.